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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,192	10/31/2003	James K. Middlebrook	31254-2	9975

7590

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EXAMINER

TRIEU, THAI BA

ART UNIT

PAPER NUMBER

3748

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/698,192	MIDDLEBROOK ET AL.	
	Examiner	Art Unit	
	Thai-Ba Trieu	3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,19 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 5-7 is/are allowed.
- 6) ☒ Claim(s) 19 and 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the amendment filed on September 08, 2005. Applicant's cooperation in amending the claims to overcome the claim objections relating to informalities is appreciated. Claims 24 and 26 were amended, claims 4, 8-18, 20, and 27-40 were canceled; and claims 31-35 were withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 21-24, and 26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Williams (Patent Number 5,669,336).

Williams discloses a device comprising:

an impeller (24) (See Figure 1);

a drive pulley (28) coupled to the supercharger (See Figure 1, Column 4, line 5-12);

a disengagement device (18) disposed between the impeller (24) and the drive pulley (28) (See Figure 1);

wherein the disengagement device (18) permits selective disengagement between the impeller (24) and the drive pulley (28) (See Figure 1);

wherein the impeller (24) is disengaged from the drive pulley during deceleration (See Figure 1, Column 3, lines 24-26, and Column 4, lines 47-51);

wherein the disengagement device (18) comprises a one-way clutch and is to be a sprag or overrunning clutch (See Figure 1, Column 3, lines 2-11 and lines 43-58);

wherein the disengagement device (18) comprises a speed-sensitive mechanism (See Column 3, lines 2-11);

wherein the disengagement device is coupled to the drive pulley (via 14 and 30) (See Figure 1).

Note that Williams does not disclose a supercharger, however, the Williams fan is capable of performing the same function of compressing air as a supercharger does.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (Patent Number 5,669,336), in view of Thompson (Patent Number 2,718,952).

Williams discloses the invention as recited above; however, Williams fails to disclose the disengagement device comprising a centrifugal clutch.

Thompson teaches that it is conventional in the combination art of the centrifugal clutch and pulley structure, to utilize the disengagement device comprising a centrifugal clutch (10) (See Figure 1-3).

It would have been obvious to one having ordinary skill in the art at that time the invention was made, to have utilized the disengagement device comprising a centrifugal clutch, as taught by Thompson, to improve the efficiency of the Williams device.

Allowable Subject Matter

Claims 1-3 and 5-7 allowed.

Response to Arguments

Applicant's arguments filed on September 08, 2005 have been fully considered but they are not persuasive. Accordingly, claims 1-3, 5-7 and 21-26 are pending.

Applicant asserts that the Williams's reference makes no reference to a supercharger, whether directly or impliedly; however, this reference is directed to an internal combustion engine. See remarks section, pages 8-10. The examiner respectfully traversed.

Firstly, in response to applicant's arguments, the recitation "***a supercharger***" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the

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purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Secondly, in response to applicant's argument that "***a supercharger***" in the independent claims 19, 24, and 26 " is an intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCCPA 1963).

The reference to Williams does disclose the similar structure as being claimed in claims of the instant application and is capable of performing the same function of the instant application device such as the Williams fan being capable of performing the same function of compressing air as a supercharger does. Furthermore, the reference to Williams suggests or teaches all belt driven accessories could use this type of device (See Column 4, lines 10-12).

Applicant also asserts, on page 9, that the reference to Williams does not teach the use of an over-running device for a supercharger to assist in stabilizing a precision high-speed spindle assembly during racing or competition. The examiner is respectfully

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traversed because the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Lebold et al. (Pub. Number US 2003/0084888 A1) discloses a supercharger having a variable clutch (5) located between an impeller 3 and a pulley (4).

- Nakamura (Patent Number JP 04 06118 A) discloses supercharger (10) having a driving pulley (6) and a one-way clutch (24) being disengaged in deceleration and engaging as the supercharger 10 reaches a required high speed rotation in a short time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (571) 272-4867. The examiner can normally be reached on Monday - Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTB
June 01, 2005



Thai-Ba Trieu
Primary Examiner
Art Unit 3748